

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0036P

**Withholding Tax
Calendar Year 1996**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed for the late filing of its W-2's. Taxpayer was denied a penalty waiver by Taxpayer Services on November 20, 1997 and obtained approval from the Legal Division to provide additional information dated December 19, 1997.

The department makes its determination based upon evidence contained in the file and the letter of protest.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in timely filing its W-2 returns.

Taxpayer states the tax manager began work with the company in September 1996 and in October was hospitalized with a severe heart condition spending over six weeks in the hospital. He was permitted to return to work by December and delegated the year-end payroll filing to the payroll clerk who had little experience with payroll tax filings. Accordingly, it took her longer to file the payroll returns.

Indiana Law requires all information returns to be filed no later than the last day of February following the close of the tax year. Taxpayer filed its returns six days after the due date. The tax manager was at

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work by December and should have assured that the returns were timely filed.

FINDING

Taxpayer's protest is denied.